

REMARKS

A. THE 35 U.S.C. §102 REJECTIONS

Claims 1, 3, 4, 8-12, 20, 22, 23, 27-29, 37, 41, 42 and 47-49 were rejected under 35 U.S.C. §102(b) as being unpatentable over Lyer et al., U.S. Patent No. 6,295,450 (“Lyer”). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Lyer does not disclose (or suggest) the measurement, or use, of real-time traffic flow criteria to, among other things, set the number of base stations that may be considered hand-off base stations.

In the Office Action the Examiner appears to refer to columns 4 and 5 of Lyer as allegedly disclosing the measurement of real-time traffic flow criteria. This is inaccurate. Instead, Lyer selects a base station that “can best serve [a] remote unit 113” based on signal quality measurements, not traffic flow.

More specifically, Lyer initially computes a list of base stations that can best serve a remote unit by having a serving base station exchange signaling messages with its neighboring base stations and then computing the list or by having the neighboring base station send information directly to the remote unit (see column 4, lines 41-67). In either case, at no time is traffic flow, let alone real-time traffic flow, measured or used to compute the list or select a neighboring base station as a hand-off base station as in the claims of the present invention. The only real time measurements made by Lyer appear to be signal quality measurements.

Accordingly, because Lyer does not disclose each and every feature of claims 1, 3, 4, 8-12, 20, 22, 23, 27-29, 37, 41, 42 and 47-49 it cannot anticipate these claims under 35 U.S.C. §102(b). Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1, 3, 4, 8-12, 20, 22, 23, 27-29, 37, 41, 42 and 47-49.

B. THE 35 U.S.C. §103 REJECTIONS

Claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40 were rejected under 35 U.S.C. §103(a) based on a combination of Lyer and Celedon et al., U.S. Patent Publication No. 2003/0190916 (“Celedon”). Further, claims 16-19, 33-36 and 43-46 were rejected under 35 U.S.C. §103(a) based on a combination of Lyer in view of Celedon and Hellander, U.S. Patent No. 6,445,918 (“Hellander”). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

(i) Claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40

Initially, Applicants note that claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40 depend on either claims 1, 11, 20, 28 or 37 and are, therefore, patentable over the combination of Lyer and Celedon for the reasons set forth above and because Celedon does not make up for the deficiencies in Lyer.

Rather than disclose or suggest the measurement of real-time traffic flow criteria associated with base stations, Celedon appears to disclose the use of non-real time information (See paragraph [0022], “Generally, measurements are stored and available in an MSC to use in determining the necessity for removing or adding a particular cell in a neighbor list.”).

(ii) Claims 16-19, 33-36 and 43-46

In the Office Action the Examiner admits that neither Lyer nor Celedon teach “measuring, in real time, traffic flow criteria related to a wireless network.” To make up for this deficiency the Examiner relies on Hellander.

Initially, Applicants note that claims 1, 3, 4, 8-12, 20, 22, 23, 27-29, 37, 41, 42 and 47-49 (which were rejected under §102, not §103) also contain a similar feature and, therefore, are patentable over Lyer and Celedon for the reasons set forth above and because the Examiner has now acknowledged as much in the arguments rejecting claims 16-19, 33-36 and 43-46.

Further, Applicants note that Hellander does not make up for the deficiencies of Lyer or Celedon. Instead of disclosing or suggesting the measurement of real-time traffic flow criteria associated with base stations Hellander appears to disclose “previously performed mobile-assisted handoff measurements” to reconnect dropped calls; such measurements are not based on real-time traffic flow criteria.

Accordingly, because none of the combination of references cited by the Examiner suggests the measurement of real-time traffic flow criteria, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 2, 5-7, 13-15-19, 21, 24-26, 30-32, 33-36 and 43-46.

C. ENTRY OF THIS REQUEST FOR RECONSIDERATION

Entry of this Request for Reconsideration (“Request”) is solicited because the Request: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issues regarding further search and/or consideration; (c) does not present any additional claims without canceling the corresponding number of finally rejected claims; and (d) places the application in better form for appeal, if an appeal is necessary.

CONCLUSION

Applicants respectfully request reconsideration, withdrawal of the pending rejections and allowance of claims 1-49.

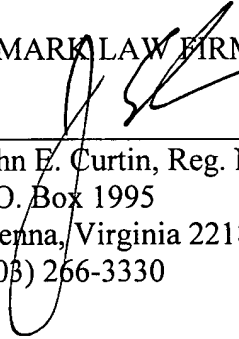
In the event this Request does not place the present application in condition for allowance, Applicants request that the Examiner contact the undersigned at (703) 266-3330 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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